

REMARKS

Requirement for Restriction

The Examiner issued a Requirement for Restriction between the claims of Group I, *i.e.*, Claims 1-7 and the claims of Group II, *i.e.*, Claims 8-20. Applicant provisionally elects to prosecute the claims of Group II with traverse.

The Examiner noted that the subject matter claimed in Claims 1-7 and 8-20 can be related as product and process of making. The Examiner cited MPEP § 806.05(f) in support of the proposition that the product can be made by "a materially different process" and that the method can be applied to make "any protein that has been purified from cell culture." (Action at page 2, lines 12-15.) Applicant respectfully traverses.

Applicant's specification describes that through the application of the claimed methods it is now possible to produce recombinant Hepatitis B Surface Antigen (rHBsAg) "that has a higher specific antigenicity than previously known rHBsAg." (Specification, page 4, lines 14-15.) Applicant notes that the specification is the subject of the declaration made by the inventors.

Nevertheless, the Examiner states that the claimed rHBsAg "can be made by a materially different process, such as by recombinant DNA techniques..." (Action at page 2, lines 13-14.) Applicant invites the Examiner to particularly point out where in the art it has been shown that rHBsAg having the specific antigenicity of the rHBsAg claimed in the present application can in fact be made by a materially different process such as recombinant DNA techniques and/or chemical synthesis. Lacking such a showing, Applicant believes that the Examiner is incorrect in making that assertion and the present Requirement for Restriction is improperly imposed.

For the above stated reasons, Applicant respectfully requests that the Requirement for Restriction between the claims of Groups I and II be withdrawn. However, should the Examiner maintain the Requirement for Restriction, Applicant provisionally elects to prosecute the claims of Group II.

CONDITIONAL PETITION

Applicant hereby makes a Conditional Petition for any relief available to correct any defect in connection with this filing, or any defect remaining in this application after this

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filing. The Commissioner is authorized to charge deposit account 13-2755 for the petition fee and any other fee(s) required to effect this Conditional Petition.

CONCLUSION

Applicant has provisionally elected to prosecute the claims of Group II with traverse. The Examiner is invited to contact Applicant's Attorney at the telephone number given below, if such would expedite the allowance of this application.

Respectfully submitted,

By 

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